

Assembly Bill No. 2863

CHAPTER 846

An act to amend Sections 21354.3, 31522.3, and 31672 of, to add Sections 31680.9 and 70046.2 to, and to repeal and add Article 8.6 (commencing with Section 31694) to Chapter 3 of Part 3 of Division 4 of Title 3 of, the Government Code, relating to public employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2006. Filed with
Secretary of State September 30, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2863, Karnette. Public employees: retirement.

(1) The Public Employees' Retirement Law permits a contracting agency of the Public Employees' Retirement System to provide service retirement benefits for local miscellaneous members, as defined, based on a 3% at 60 years of age formula. Under that law, if a contracting agency adopts the 3% at 60 years of age formula, the contribution rate for local miscellaneous members is increased from 7% to 8% of compensation. Member contributions are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would authorize Riverside County contracting agencies, as defined, to provide retirement benefits to local miscellaneous members based on a 3% at 60 years of age formula. The bill would provide that the 3% at 60 years of age formula shall supersede the previous retirement formula for the current service of existing employees of a contracting agency and the prior service those employees earned with a contracting agency, as specified.

By increasing member contributions to the Public Employees' Retirement Fund, this bill would make an appropriation.

(2) The County Employees Retirement Law permits a retirement board or a board of investments in specified counties to appoint assistant administrators and chief investment officers. Under that law, those assistant administrators and chief investment officers are county employees, are not subject to county charter, civil service, or merit system rules, and serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards.

This bill would additionally permit the retirement board in Marin County to appoint assistant administrators and chief investment officers.

(3) Under the County Employees Retirement Law, a member of a county retirement system may retire after filing a written application with the board of retirement. That law requires the member to select a date that

his or her retirement will be effective and this date may not be more than 60 days after the date the application is filed with the board.

This bill would additionally provide that the effective date of a member's retirement may not be earlier than the date the application is filed with the board.

(4) Under the County Employees Retirement Law, if a county board of supervisors adopts a resolution by majority vote, a safety member of a county or district within that county may be required to retire at a specified age. That law permits a retired member to be reemployed by the county or a district and reinstated to active membership in the retirement system. Under that law, operative January 1, 2007, a retired safety member in Los Angeles County who was required to retire because of age may be reemployed by the county and reinstated to active membership, as specified.

This bill would prohibit, under specified conditions, a retired safety member in Los Angeles County from reinstating from retirement to active membership in the retirement system.

(5) The County Employees Retirement Law permits the board of supervisors of a county with a retirement system subject to that law, by resolution, to authorize a county retirement board to provide for payments toward group health insurance for specified members of the retirement system and their beneficiaries.

This bill would revise and recast those provisions to permit a county board of supervisors or the governing body of a district or other public entity that participates in a county retirement system subject to the County Employees Retirement Law to contribute to a Post-Employment Benefits Trust Account as part of the retirement fund to provide for payments towards group health, life, or other welfare benefits for specified members and their beneficiaries. The bill would also permit a board of supervisors of a county, or the governing body of a district, to establish its own trust for the purpose of funding group health, life, or other welfare benefits, and to enter an agreement with a board of retirement and board of investments for those boards to act as trustee, third-party administrator, or investment manager of that county or district trust. The bill would also require a county, governing body, or district in Los Angeles County to fund the provisions of the Post-Employment Benefits Trust Account under the provisions of a ratified collective bargaining agreement. The bill would further provide that a contract between a participating public employer and a board of retirement or board of investments shall not change the obligations of that public employer, board of retirement, or board of investments created under other contracts, laws, ordinances, regulations, or similar actions, as specified.

(6) Existing law provides for the compensation and benefits of court reporters in specified counties.

This bill would provide that the compensation of regular official court reporters in Fresno County shall be determined by collective bargaining between the court reporters and the superior court. The bill would also

define, for purposes of retirement, the compensation of a regular official court reporter in Fresno County, as specified.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 21354.3 of the Government Code is amended to read:

21354.3. (a) The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of local miscellaneous member with which the member is entitled to be credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 1/4.....	1.0125
50 1/2.....	1.0250
50 3/4.....	1.0375
51	1.0500
51 1/4.....	1.0625
51 1/2.....	1.0750
51 3/4.....	1.0875
52	1.1000
52 1/4.....	1.1125
52 1/2.....	1.1250
52 3/4.....	1.1375
53	1.1500
53 1/4.....	1.1625
53 1/2.....	1.1750
53 3/4.....	1.1875
54	1.2000
54 1/4.....	1.2125
54 1/2.....	1.2250
54 3/4.....	1.2375
55	1.2500
55 1/4.....	1.2625
55 1/2.....	1.2750

Age at Retirement	Fraction
55 $\frac{3}{4}$	1.2875
56	1.3000
56 $\frac{1}{4}$	1.3125
56 $\frac{1}{2}$	1.3250
56 $\frac{3}{4}$	1.3375
57	1.3500
57 $\frac{1}{4}$	1.3625
57 $\frac{1}{2}$	1.3750
57 $\frac{3}{4}$	1.3875
58	1.4000
58 $\frac{1}{4}$	1.4125
58 $\frac{1}{2}$	1.4250
58 $\frac{3}{4}$	1.4375
59	1.4500
59 $\frac{1}{4}$	1.4625
59 $\frac{1}{2}$	1.4750
59 $\frac{3}{4}$	1.4875
60 and over	1.5000

(b) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars (\$400) per month for all services of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and who elects not to be subject to this subdivision or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) This section shall supersede Sections 21353, 21354, 21354.1, 21354.4, and 21354.5 with respect to a local miscellaneous member who is employed by a contracting agency on or after the date this section becomes applicable to the contracting agency.

(d) This section shall not apply to a contracting agency nor its employees until the contracting agency elects to make all local miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(e) (1) Notwithstanding subdivision (d) and for purposes of this subdivision, "Riverside County contracting agency" means any of the following:

- (A) County of Riverside.
- (B) County of Riverside Regional Park and Open-Space District.

(C) County of Riverside Waste Resources Management District.

(D) County of Riverside Flood Control and Water Conservation District.

(2) This section shall apply to a former employee of a Riverside County contracting agency if that former employee is currently employed by another Riverside County contracting agency. This section shall not apply to a Riverside County contracting agency nor the current or former employees of that Riverside County contracting agency until the Riverside County contracting agency elects to make all local miscellaneous members subject to this section by amendment to the contract of that Riverside County contracting agency, made in the manner prescribed for approval of contracts, or in the case of a new contract, by express provision of the contract. The provisions of this section shall apply with respect to a local miscellaneous member on the effective date of the amendment to the Riverside County contracting agency's contract electing to be subject to this section.

SEC. 2. Section 31522.3 of the Government Code is amended to read:

31522.3. (a) In a county in which the board of retirement or both the board of retirement and the board of investment have appointed personnel pursuant to Section 31522.1, the respective board or boards may elect to appoint assistant administrators and chief investment officers as provided for in this section. The positions of the assistant administrators and chief investment officers designated by the retirement board shall not be subject to county charter, civil service, or merit system rules. The persons so appointed shall be county employees and shall be included in the salary ordinance or salary resolution adopted by the board of supervisors for the compensation of county officers and employees. The assistant administrators and chief investment officers so appointed shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal of the assistant administrators and chief investment officers by the appointing board or boards.

(b) This section shall not apply to any person who was an assistant administrator or a chief investment officer and was included in the county civil service or was subject to merit system rules on December 31, 1996.

(c) This section shall only apply to a county of the third class, a county of the eighth class, a county of the 14th class, a county of the 15th class, or a county of the 18th class, as provided by Sections 28020, 28024, 28029, 28035, 28036, and 28039.

SEC. 3. Section 31672 of the Government Code is amended to read:

31672. A member who has reached 70 years of age or a member who has completed 10 years of service and who has reached 55 years of age, or a member who has completed 30 years of service regardless of age, may be retired upon filing with the board a written application, setting forth the date upon which he or she desires his or her retirement to become effective not earlier than the date the application is filed with the board and not

more than 60 days after the date of filing the application. Fifty-five years of age in the preceding sentence may be reduced to 50 years of age in a county by resolution of the board of supervisors.

SEC. 4. Section 31680.9 is added to the Government Code, to read:

31680.9. (a) The application of Section 31680.8 shall be limited by this section. Section 31680.8 shall not apply to either of the following:

(1) A safety member who was required to retire as described in Section 31663.2.

(2) A member who retired as a safety member described in Section 31470.4 or 31470.6.

(b) This section shall apply only to a county of the first class as described in Section 28020.

SEC. 5. Article 8.6 (commencing with Section 31694) of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code is repealed.

SEC. 6. Article 8.6 (commencing with Section 31694) is added to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, to read:

Article 8.6. Post-Employment Benefits

31694. (a) The board of supervisors of a county or the governing body of a district or other public entity may, by ordinance or resolution and with the agreement of the board of retirement, provide for the contribution of funds by the county, a district, or other public entity into a Post-Employment Benefits Trust Account. The retirement system shall establish the Post-Employment Benefits Trust Account as a part of the retirement fund. The Post-Employment Benefits Trust Account shall be established for the sole purpose of funding the benefits provided under a post-employment group health, life, or other welfare benefits plan or plans established and maintained by the county or district, which plan or plans may provide for self-insured coverage or the payment of all or a portion of the premiums on one or more insurance contracts or health care service plan contracts for retired employees of the participating county, district, or other public entity, and their qualified spouses, dependents and beneficiaries.

(b) Contributions to the Post-Employment Benefits Trust Account may include the proceeds of debt issued by the county, a district, or other public entity solely for the purpose of funding post-employment health, life, or other welfare benefits.

(c) The post-employment benefits provided with the funds contributed to the Post-Employment Benefits Trust Account are in addition to any other benefits provided under this chapter.

(d) (1) Except as described in subdivision (b) of Section 31694.1, the assets of the retirement fund may not be used, directly or indirectly, to pay the cost of any benefits provided through the Post-Employment Benefits Trust Account.

(2) Except as described in subdivision (c) of Section 31694.1, funds in the Post-Employment Benefits Trust Account may not be used, directly or indirectly, to pay the cost of any other benefits provided under this chapter.

31694.1. (a) The retirement system shall separately account for, on the books of the retirement system, the funds contributed to the Post-Employment Benefits Trust Account by each participating employer and the earnings and expenses related to the investment and administration of those funds.

(b) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, shall have sole, exclusive, and plenary authority and fiduciary responsibility over the investment of the Post-Employment Benefits Trust Account, consistent with Sections 31594 and 31595, and as provided for in Section 17 of Article XVI of the California Constitution. The board of retirement or board of investments may invest funds in the Post-Employment Benefits Trust Account with those of the retirement system. The investment earnings and investment expenses attributable to the investment activity of the Post-Employment Benefits Trust Account shall be accounted for separately from the investment earnings and expenses of the retirement fund.

(c) The funds in and investment earnings of the Post-Employment Benefits Trust Account shall be used to pay the reasonable costs related to investment expenses and administration of the Post-Employment Benefits Trust Account. Those expenses shall not be deemed to be an investment or administrative expense of a retirement system under this chapter.

(d) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, may establish rules and procedures governing the investments and administration of the Post-Employment Benefits Trust Account. The board of retirement or the board of investments shall determine the rate of interest to credit the funds in the Post-Employment Benefits Trust Account.

(e) The board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, is authorized to take any and all actions necessary to establish and administer the Post-Employment Benefits Trust Account in compliance with applicable federal tax laws or other legal requirements.

(f) The board of retirement, or the board of retirement acting jointly with a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, and a participating employer in the Post-Employment Benefits Trust Account shall establish, by written agreement, the respective roles and responsibilities of the retirement system and the participating employer with respect to the administration and investment of the Post-Employment Benefits Trust Account. That agreement shall include, but is not limited to, funding, distribution, expenditure, actuarial, accounting, and reporting

considerations, and any applicable investment parameters. The board may, in its discretion, authorize an employer to transfer assets into or out of the prefunding plan, however any transfer of assets shall comply with the terms of the contract between the employer and the board, satisfy requirements under applicable rules of the Governmental Accounting Standards Board, and satisfy the requirements of Section 115 of the Internal Revenue Code. Once the investment parameters are established, the board of retirement, or a board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, shall have sole control over the investment activity of the Post-Employment Benefits Trust Account as described in subdivision (b). Upon agreement and authorization of the board of retirement and the governing body of a participating employer, the retirement system may administer a post-employment health, life, or other welfare benefit plan sponsored by the participating employer and funded through the Post-Employment Benefits Trust Account.

(g) In accordance with procedures established in the written agreement described in subdivision (f), the participating employer may elect to terminate participation in the Post-Employment Benefits Trust and instruct the retirement system to either (1) transfer the funds held in the Post-Employment Benefits Trust Account to a successor trustee named by the employer, or (2) disburse the trust assets in accordance with subdivision (h). In addition, the board of retirement may terminate the participation of a participating employer in the Post-Employment Benefits Trust Account if either:

(1) The board of retirement finds that the participating employer is unable to satisfy the terms and conditions required by this article, the rules and procedures established by the board, or the participation agreement between the participating employer and the board of retirement.

(2) The board of retirement elects to terminate the Post-Employment Benefits Trust Account.

(h) If the board of retirement terminates the participation of an employer in the Post-Employment Benefits Trust Account, as described in paragraph (1) or (2) of subdivision (g), the funds attributable to that employer shall remain in the Post-Employment Benefits Trust Account, for the continued payment of post-employment benefits for current and future participants and the costs of administration and investment.

(i) If the board of retirement elects to terminate the Post-Employment Benefits Trust Account, the retirement system shall disburse the funds in Post-Employment Benefits Trust Account in the following order and manner:

(1) The retirement system shall retain an amount sufficient to pay for the post-employment insurance benefits for participants in the post-employment insurance plan or plans provided by the former participating employer.

(2) The retirement system shall retain an amount sufficient to pay reasonable administrative and investment costs described in this section.

(3) After the amounts in paragraphs (1) and (2) have been retained or disbursed, the retirement system shall pay any remaining funds to the former participating employer or employers.

31694.2. An employer who elects to participate in the Post-Employment Benefits Trust Account shall be required to establish, fund, and apply distributions from the Post-Employment Benefits Trust Account, and administer a post-employment health, life, or other welfare benefit plan or plans funded through the Post-Employment Benefits Trust Account, pursuant to applicable federal tax requirements or other legal provisions. An employer may expressly delegate its responsibilities under this section to the retirement system as described in subdivision (f) of Section 31694.1.

31694.3. (a) The board of supervisors of a county, or the governing body of a district, may establish, by resolution or ordinance, its own trust for the sole purpose of funding any post-employment benefits provided under a group health, life, or other welfare benefits plan or plans established and maintained by that county or district.

(b) The board of retirement and, if applicable, the board of investments, may, with the agreement of the county or district, act as one or more of the following for that employer-established trust: trustee, third-party administrator, or investment manager. The board of retirement and, if applicable, the board of investments, may enter a trust agreement, third-party administrative services agreement, investment manager agreement, or other appropriate agreement with the county or district, which shall establish the respective roles and responsibilities of the parties with respect to the administration and investment of the employer-established trust. That agreement shall provide for the manner and method of payment for the reasonable costs related to investment expenses for, and administration of, the employer-established trust. Those expenses shall not be deemed to be an investment or administrative expense of a retirement system under this chapter.

(c) The county or district may contract with an entity other than the board of retirement or board of investments to act as trustee, third-party administrator, or investment manager for the trust.

(d) Contributions to the employer-established trust may include the proceeds of debt issued by the county or district solely for the purpose of funding post-employment health, life, or other welfare benefits.

31694.4. This article shall not apply to a county, district, or other public entity in a county of the first class as defined by Section 28020 until the provisions of this article are funded pursuant to the provisions of a ratified collective bargaining agreement by that county, district, or other public entity.

31694.5. A contract entered into between a public employer and a board of retirement or board of investments as described in Section 31694.1 shall not change the obligations of a public employer, board of retirement, or board of investments that are created under other contracts, laws, ordinances, regulations, or similar actions to provide benefits for

employees or retired employees of a participating county, district, or other public entity, or their qualified spouses, dependents, and beneficiaries.

SEC. 7. Section 70046.2 is added to the Government Code, to read:

70046.2. (a) In Fresno County, the compensation of each regular official court reporter shall be determined through the collective bargaining process.

(b) For the purposes of retirement, the compensation of each regular official court reporter shall be deemed to be the total of all per diem and transcription fees paid by the county or court to that regular official court reporter for all reporting services, plus his or her salary.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible for the 2006–07 fiscal year, and thereby facilitate the orderly administration of local government at the earliest possible time, it is necessary that this act take effect immediately.